

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MAINE

NEW HAMPSHIRE MOTOR TRANSPORT  
ASSOCIATION, MASSACHUSETTS MOTOR  
TRANSPORTATION ASSOCIATION, INC.,  
AND VERMONT TRUCK & BUS  
ASSOCIATION, INC.

Plaintiffs,

-v-

G. STEVEN ROWE, in his official capacity as  
Attorney General of the State of Maine,

Defendant.

Case No. 1:03-cv-178-DBH

**DECLARATION OF LAWRENCE R. KATZIN IN SUPPORT OF  
PLAINTIFFS' REQUEST FOR RELIEF FROM RULE 56(a) WAITING PERIOD  
BEFORE FILING MOTION FOR SUMMARY JUDGMENT**

I, Lawrence R. Katzin, declare:

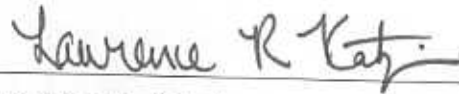
1. I am an attorney licensed to practice in the state of California, and a partner with Morrison & Foerster LLP, which, along with Jensen Baird Gardner & Henry, represents plaintiffs, the New Hampshire Motor Transport Association, the Massachusetts Motor Transportation Association, Inc., and the Vermont Truck & Bus Association, Inc. in this action. I have personal knowledge of the facts set forth below, and if called as a witness, I could and would so testify to them.

2. On October 10, 2003, the same day that the Complaint in this action was filed, I telephoned John Archard, Tobacco Enforcement Coordinator of the State of Maine Office of the Attorney General, and left a detailed voice mail message informing him of the filing, and telling him that I would e-mail him a courtesy copy of the Complaint. I further informed him that, in the interest of reaching an efficient resolution of their action, the Carrier Associations intended to move for summary judgment based solely on the ground that the express terms of the Challenged Provisions — in and of themselves, without reference to testimony or evidence concerning the actual effect on carriers of complying with the Challenged Provisions — establish that they are related to carriers' service, and therefore are preempted by the FAAAA as a matter of law. I also informed Mr. Archard that plaintiffs intended to file a motion for relief from the 20-day waiting period of Federal Rule of Civil Procedure 56(a), and that we would be willing to stipulate to a reasonable extension of time for defendant to file an opposition to plaintiffs' summary judgment motion, if requested.

3. After leaving the telephone message with Mr. Archard, I prepared an e-mail message to Mr. Archard that repeated the substance of the voice mail message, and that attached a courtesy copy of the Complaint (and other initial filings). A true and correct copy of that e-mail message (without attachments) is attached hereto as Exhibit A.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on October 10, 2003.

A handwritten signature in cursive script, reading "Lawrence R. Katzin", written over a horizontal line.

Lawrence R. Katzin

**Katzin, Lawrence R.**

---

**From:** Katzin, Lawrence R.  
**Sent:** Friday, October 10, 2003 11:29 AM  
**To:** John Archard (john.archard@maine.gov)  
**Subject:** Challenge to Maine Tobacco Law

John,

As indicated in my voice mail message, attached are courtesy copies of the Civil Cover Sheet, Complaint, Summons, and Certification of Visiting Lawyers that we e-filed today on behalf of the motor carrier associations of New Hampshire, Vermont, and Massachusetts — to challenge certain portions of the new Maine Tobacco Products law. We will make official service on your office after the summons is returned by the Clerk's office.

As further indicated in my message, in the interest of reaching an efficient resolution, the carrier associations intend to move for summary judgment based solely on the ground that the express terms of the challenged provisions — in and of themselves, without reference to testimony or evidence concerning the actual effect on carriers of complying with the Challenged Provisions — establish that they are related to carriers' service, and therefore are preempted by the FAAAA as a matter of law. We expect to file the motion early next week, and to seek relief from the 20-day waiting period of Fed.R.Civ.P. 56(a). We would be willing to stipulate to a reasonable extension of time for the Attorney General to file an opposition to our summary judgment motion, if requested.

Larry Katzin

Lawrence R. Katzin  
Morrison & Foerster LLP  
425 Market Street  
San Francisco, CA 94105-2482  
+1 (415) 268-6992 (phone)  
+1 (415) 276-7179 (direct fax - up to 10 pages)  
+1 (415) 268-7522 (main fax)  
lkatzin@mofo.com

10/10/2003